

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS**

Mykel Andrews,

Plaintiff(s),

vs.

CitiMortgage, Inc.,

Defendant(s).

Case No. 13 CV 8513
Judge Harry D. Leinenweber

**DEFENDANT CITIMORTGAGE, INC.'S MOTION TO DISMISS
PLAINTIFF'S COMPLAINT UNDER RULE 12(b)(1)**

Defendant, CitiMortgage, Inc. ("CMI"), by and through its attorneys, moves this Court to dismiss the Complaint filed by Plaintiff Mykel Andrews ("Plaintiff") pursuant to Federal Rule of Civil Procedure 12(b)(1), for lack of subject jurisdiction under the *Colorado River* doctrine. Plaintiff's Complaint was filed when there was a parallel state court proceeding against him, which resulted in a final and appealable judgment. This Court should therefore abstain from exercising jurisdiction and dismiss Plaintiff's Complaint based on *Colorado River* principles and because the Complaint is barred by *res judicata*.

WHEREFORE, for the foregoing reasons, which are more fully discussed in Defendant CMI's Memorandum of Law in Support of its Motion to Dismiss Plaintiff's Complaint under Rule 12(b)(1), CMI respectfully requests that the Court dismiss the Complaint with prejudice, and for any other relief this Court deems just and appropriate.

Dated: August 21, 2014

Respectfully submitted,

CitiMortgage, Inc.

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CERTIFICATE OF SERVICE

Courtney M. Ofosu, one of the attorneys for Defendant, CitiMortgage, Inc., states that on **August 21, 2014**, she caused the foregoing ***Motion to Dismiss Plaintiff's Complaint under Rule 12(b)(1)*** to be filed with the Clerk of the United States District Court, via the CM/ECF System, which will send electronic notification of the filing to the following counsel of record:

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By: /s/ Courtney M. Ofosu